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November 9, 2005

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The Honorable Alberto R. Gonzales  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Dear Attorney General Gonzales:

We write to again stress our strong interest in the European Commission's ongoing competition case against Microsoft. It is our understanding that the Commission recently issued a decision that will compel Microsoft to disclose sensitive intellectual property to third parties, and that Microsoft has challenged this decision in the European Court of First Instance (CFI). Given the broad impact and precedential value this decision might have on Microsoft and the intellectual property of other American-based firms, we urge the Department of Justice to intervene directly with the CFI on Microsoft's behalf in this litigation.

In our most recent letter to the Department of Justice, dated September 22, 2004, we expressed our view that the application of multiple and potentially discriminatory antitrust laws could adversely affect American businesses and consumers. The Commission's attempt to compel Microsoft to disclose proprietary trade secrets to third parties only underscores these concerns. We are also troubled by the precedent the Commission's actions may establish for future EU regulatory action. The legal protection of intellectual property is central to U.S. economic competitiveness. The Commission's possible reliance upon its recent decision in this case to compel other American companies to disclose its intellectual property would have a clearly deleterious impact on United States companies operating in Europe.

As we have stressed in earlier correspondence, the Commission's actions against Microsoft further demonstrate a disregard for principles of international comity that should inform its consideration of this case. The Department of Justice has fully investigated and litigated the issues upon which the Commission's recent decision is based, and these matters are subject to ongoing oversight by the Department and United States courts. The Commission's failure to provide deference to United States antitrust authorities is inconsistent with the spirit of the U.S.-European Union Antitrust Cooperation Agreement of 1991.

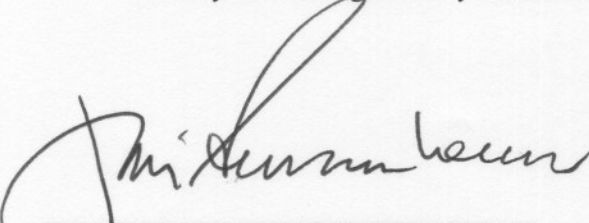
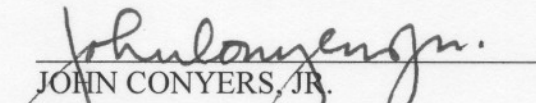
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Finally, we believe that this provides an important opportunity at a critical time for the United States' government to ensure that foreign governments do not establish antitrust regimes that serve as a pretext to discriminate against United States firms. As you know, intellectual property rights are under assault in several countries. China, Singapore, and Japan are already considering changes to their competition laws that would weaken IP rights. We are deeply concerned that the Commission's decision will create an impetus for similar discriminatory policies and harmful practices. It is essential that the United States' government provide strong leadership in this important area at this time.

For these reasons, we urge the Department of Justice to intervene on Microsoft's behalf in the company's challenge to the Commission's decision, and to take any additional appropriate steps toward ensuring that the remedies imposed against Microsoft by the European Commission are consistent with the regulatory framework adopted pursuant to the U.S. Consent Decree.

Thank you once again for your attention to this matter.

Sincerely,

  
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F. JAMES SENSENBRENNER, JR.  
Chairman  
\_\_\_\_\_  
JOHN CONYERS, JR.  
Ranking Member

cc: Ambassador Rob Portman, United States Trade Representative  
Secretary Robert B. Zoellick, Department of State